IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

OP.No. 13281 of 1999(F)

PETITIONERS;

1. **T.A.JOSE, ASSISTANT GRADE-I (DEPOT), FOOD CORPORATION OF INDIA, DISTRICT OFFICE, PALAKKAD.**

2. **V.GOPINATHAN, ASSISTANT GRADE – I (DEPOT), FOOD CORPORATION OF INDIA, DISTRICT OFFICE, PALAKKAD.**

3. **M.UNNIKUMARAN, ASSISTANT GRADE I (DEPOT), FOOD CORPORATION OF INDIA, DISTRICT OFFICE, PALAKKAD.**

BY ADV. SRI.K.P.DANDAPANI (SR.)

RESPONDENTS:

1. **FOOD CORPORATION OF INDIA, REPRESENTED BY ITS MANAGING DIRECTOR, 16/20, BARAKAMBA LANE, NEW DELHI.**

2. **THE ZONAL MANAGER, FOOD CORPORATION OF INDIA, ZONAL OFFICE, MADRAS – 600 006.**

3. **THE SENIOR REGIONAL MANAGER, FOOD CORPORATION OF INDIA, REGIONAL OFFICE, THIRUVANANTHAPURAM – 4.**

BY ADV. SRI.T.P.M.IBRAHIM KHAN, SC, F.C.I.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.21381/1999 IN O.P.NO.13281/1999 F

DISMISSED

24/07/2007 **SD/- THOTTATHIL B.RADHAKRISHNAN,JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF OFFICER ORDER NO.79/97/E.II DTD. 12/08/97 ISSUED BY R2.**

EXT.P2: **COPY OF OFFICE ORDER NO.5/11/96-Se.CELL.VOL.II DTD. 2/09/1997 ISSUED BY R2.**

EXT.P3: **COPY OF THE JUDGMENT DTD. 13TH JULY, 1998 IN O.P.13068/98E.**

EXT.P4: **COPY OF OFFICE ORDER O.O.NO.363/98/E1 DTD. 7/10/98 ISSUED BY R2.**

EXT.P5: **COPY OF PROCEEDINGS NO.WRC/1/11/96-PF DTD. 31/10/98 ISSUED BY R3.**

EXT.P6: **COPY OF OFFICE ORDER LR.NO.5/5/98 SEN.CELL. DTD. 6/11/98 ISSUED BY R2.**

EXT.P7: **COPY OF THE RELEVANT EXTRACT OF OFFICE ORDER DTD. 3/03/1999 ISSUED BY R2.**

EXT.P8: **COPY OF OFFICE PROCEEDINGS NO.WRC/1/9/98/PF/DEPOT DTD. 15/03/1999.**

EXT.P9: **COPY OF THE PROCEEDINGS NO.WRC/1/3/98-PF.VOL.II DTD. 31/10/98.**

EXT.P10: **COPYOF THE OFFICE ORDER DTD. 31/10/1986 ISSUED BY THE DISTRICT MANAGER, FCI.**

EXT.P10(A): **COPY OF THE OFFICE ORDER DTD. 16/10/1998 ISSUED BY THE DISTRICT MANAGER, FCI.**

EXT.P10(B): **COPY OF THE OFFICE ORDER DTD. 28/02/2002 ISSUED BY THE DISTRICT MANAGER, FCI.**

EXT.P10(C): **COPY OF THE OFFICE ORDER DTD. 16/08/03 ISSUED BY DISTRICT MANAGER, FCI.**

...2/-

O.P.NO.13281/1999 F

3RD RESPONDENT'S EXHIBITS:

EXT.R3(A): COPY OF THE CIRCULAR NO.6 OF 1985 (NO.5-5/76-EP) DTD. 11/02/1985 ISSUED BY THE HEADQUARTERS OF THE FOOD CORPORATION OF INDIA, NEW DELHI.

I.A.NO.14261/2005

EXT.R3(A): COPY OF THE OFFICE ORDER NO.134/2001/E1 DTD. 12/04/2001 ISSUED BY THE ZONALMANAGER, CHENNAI.

EXT.R3(B): COPY OF THE OFFICE ORDER NO.135/2001/E1 DTD. 12/04/2001 ISSUED BY THE ZONAL MANAGER, FOOD CORPORATION OF INDIA, CHENNAI.

EXT.R3(C): COPY OF THE PROCEEDINGS NO.WRC/1/2/2000 PF DTD. 1/10/2001 OF THE SENIOR REGIONAL MANAGER, FOOD CORPORATION OF INDIA, THIRUVANANTHAPURAM – 4.

EXT.R3(D): COPY OF THE PROCEEDINGS NO.WRC/1/4/2002PF DTD. 28/03/2002 OF THE SENIOR REGIONAL MANAGER, FOOD CORPORATION OF INDIA, THIRUVANANTHAPURAM – 4.

/TRUE COPY/

P.A.TO JUDGE

KSS

THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.13281 OF 1999

Dated this the 24th day of July, 2007

JUDGMENT

The petitioners are Assistants in the service of the first respondent Food Corporation of India.

2. The short issue that arises for decision in this case is as to whether Assistants Grade III, Grade II and Grade I in the service of the first respondent at the relevant time were discharging the same duties and responsibilities or, in other words, whether the duties and responsibilities attached to the post of Assistants Grade III, Grade II and Grade I in the service of the first respondent at the relevant time were one and the same. Since the materials on record had not demonstrated that the duties and responsibilities of all the three grades are the same, I had issued order dated 4.6.2007 giving an opportunity to the petitioner to place further materials on record. It is submitted that additional materials have been placed.

3. After hearing learned counsel for the petitioner and learned counsel for the Food Corporation of India, it is apparent that the controversy between the parties is as to whether the Assistants in Grade III, Grade II and Grade I are discharging the same duties and responsibilities and as to whether the movement from the lower grade to the higher grade is merely an internal promotion. If that were so, conferment of a higher grade could be a normal course of event, without disturbing any seniority list but would result only in the incumbent drawing higher emoluments. However, such a question would necessarily depend upon the consideration of the ground realities as to whether the duties and responsibilities of the personnel in the three grades are one and the same.

4. In the aforesaid circumstances, though this matter relates to an issue arisen in 1999 or earlier, the petitioners are given an opportunity to make a representation before the competent authority in the first respondent and the said authority will decide on the said issue, taking into consideration all materials

that may be furnished by the petitioners and as are furnished in this writ petition. The petitioners may also, if they so desire, be granted an opportunity of being heard. A final decision as aforedirected shall be taken within a period of six months from the date of receipt of a copy of this judgment.

The writ petition is disposed of with the above directions.

Sd/-

THOTTATHIL B.RADHAKRISHNAN
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.13281 OF 1999

JUDGMENT

1ST JUNE, 2007.

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